

MINUTES
**Commission for Mental Health, Developmental Disabilities and
Substance Abuse Services**
Holiday Inn North Raleigh (2805 Highwoods Blvd.)

Monday, November 24, 2003

Attending:

Commission Members Present:

Pender McElroy, Chairman, Lois Batton, Patricia Chamings, Laura Coker, Dorothy Crawford, Mansfield Elmore, Pearl Finch, Albert Fisher, Mazie Fleetwood, Paul Gulley, Ellen Holliman, George Jones, Mary Kelly, Judy Lewis, Martha Macon, Martha Martinat, Emily Moore, Floyd McCullouch, Tom Ryba, Anna Scheyett, William Sims, Don Stedman, Bernard Sullivan, Ann Suggs, Marvin Swartz

Commission Members Absent:

Fredrica Stell (excused), Raymond Reddrick (unexcused), Lou Adkins (excused)

DMH/DD/SAS Staff Present:

Richard Visingardi, Director, DMH/DD/SAS
Don Willis, Chief, Administrative Services Section
Peggy Balak, Division Affairs Team Leader
Stephanie Alexander, Division Affairs Team
Susan Kelley, Communications & Training Team
Amy Smiley, Division Affairs Team

Others Present:

Jack Blackley (DMH/DD/SAS), Doug Baker (DMH/DD/SAS), Chris Phillips (DMH/DD/SAS), Flo Stein (DMH/DD/SAS), Bert Bennett (DMH/DD/SAS); Stan Slawinski (DMH/DD/SAS); John Womble (DMH/DD/SAS), Joe Glover (National Drug Search, Inc.), Janet Schanzenbach (NC Council of Community Programs), Steve Jordan, Charles Franklin, Albemarle MHC), Bill Duffy (Success Intervention Services), Jeff Horton (Division of Facility Services), Marilyn Godette (DMH/DD/SAS), Michael Mayer (NC Community Support Providers Council), Louise Fisher (Volunteer Advocate for the Mentally Ill), Paula Cox (Volunteer Advocate/Sister & Guardian of MRC Consumer), Franklin Ingram (South Sight), Mary Hooper (NC Council of Community Programs), Anne Doolen (NC Substance Abuse Federation), Kathy Neal (Alcohol Drug Council of NC), Tony Mulvihill (Alcohol Drug Council of NC), Diane Pomper (AG's Office), Joe Donovan (DMH/DD/SAS), Tad Clodfelter (South Light), Robert Brodnax (Angel's Outreach), Jerry Ratley (SBI), Bob Hedrick (NCCSPC), John Crawford (Macon County)

Handouts:

Agenda, Minutes of 8-25-03 Commission Meeting, Draft Minutes of Advisory Committee meeting (10-2-03), 1996 Strategic Housing Plan for the NC DMH/DD/SAS, Draft Resolution of Advisory Committee (10-2-03), Draft Minutes of Rules Committee (10-1-03), Proposed Rule Language for Office-Based Opioid Treatment, Proposed Rule Language for License Denial, Amendment or Revocation, Anne Doolen Presentation Handout, Rulemaking Timeline, Draft Commission Meeting Calendar for 2004, Task Force on Housing Draft Proposal (10-23-03), Task Force on Housing Membership List, Rules Committee Membership List, Advisory Committee Membership List, New Commission Membership List

Called To Order

Chairman Pender McElroy called the meeting to order at 9:30 a.m.

Chairman's Report

Mr. McElroy introduced and welcomed Mary Kelly and Tom Ryba as new members of the Commission.

Mr. McElroy congratulated Dr. Bernard Sullivan on being awarded The Order of the Long Leaf Pine.

Mr. McElroy introduced the proposed meeting schedule for 2004. He explained why schedule is as it is because of the need to get rules in effect by certain dates. Mr. McElroy asked for input from members on the schedule.

The Rules Review Commission often requires minor wording changes in order to approve rules. In order that the process not be delayed, Mr. McElroy had asked Peggy Balak to determine from the Attorney General's office whether the Rules Committee could be authorized by the full Commission to approve minor wording changes in rules in response to comments from the Rules Review Commission. Ms. Balak received advise from the AG's office that the full Commission could authorize minor and technical changes. Substantive changes would need to be approved by the full Commission.

Motion: Floyd McCullouch moved that the Rules Committee be authorized to make minor and technical changes to rules which have been approved by the Commission and submitted to the Rules Review Commission where the RRC requires such changes. The Rules Committee is authorized to convene by phone for this purpose. The Rules Review Commission changes requiring substantive changes will require full Commission approval. Judy Lewis seconded. The motion was passed unanimously.

Advisory Committee Report

Don Stedman, Committee Chair, presented the draft minutes of the Advisory Committee's October meeting.

Proposal for Task Force on Housing

Dr. Stedman explained the Advisory Committee began working on the issue of housing about a year ago. Housing is a core need in the reform. He recognized Lou Akins as being very helpful in this task and very knowledgeable on this subject. A Subcommittee was created by the Advisory Committee to develop a proposal for future work. The subcommittee proposed the establishment of a Task Force on Housing. The Advisory Committee adopted this proposal and is bringing it forward for approval by the Commission. It is recommended the Task Force begin meeting next month with three consecutive monthly meetings. The Task Force will then meet jointly with the full Advisory Committee in April and then jointly with the full Commission in May.

There was further discussion with respect to the consultation available to the Task Force and related costs. Dr. Stedman stated the goal of the Task Force is to develop no more

than 10 clear recommendations on major policy issues. The Subcommittee identified five major areas to examine for recommendations. Dr. Stedman explained the need expressed by the Subcommittee to have people in business participate on the Task Force. Unfortunately, Dr. Stedman has not been able to obtain commitments for participation from anyone in the banking industry. He has received commitments from the list of proposed members presented. Proposed members include new faces as well as familiar faces with good geographic representation. Chairman McElroy will appoint the Task Force.

Mazie Fleetwood enthusiastically moved to adopt the Advisory Committee's proposal establishing the Task Force on Housing. The motion provides for the expansion of Task Force membership by no more than two additional members at the Chair's discretion. Martha Macon seconded the motion. All approved.

Dix Resolution

Dr. Stedman presented a Committee adopted resolution on the protection of funds from sale of Dorothea Dix Hospital property. Dr. Stedman explained the Advisory Committee expressed its support for the Commission taking a formal position on the protection of proceeds generated from sale of property if that occurs. The resolution states the position that funds be permanently restricted for use for the mh/dd/sa service system. A Commission resolution is not binding on the Secretary or the General Assembly but expresses the opinion of the Commission in its advisory role.

Motion was made and approved to adopt the resolution as written.

Rules Committee Report

Floyd McCullouch, Committee Chair, reviewed the draft minutes of the October 2, 2003 Rules Committee meeting.

The Rules Committee heard a presentation by Johnny Womble, DMH/DD/SAS, on proposed rules for office-based opioid treatment. Members made few substantive changes in the proposed rule language but asked staff to review and revise the existing language for ease of understanding. The Committee forwarded the proposed rules to the Commission with a favorable report. A full presentation on these rules will follow on today's agenda.

Mr. McCullouch reported Mr. Womble's office was also working on rules to implement new legislation regarding drug detection dogs and their handlers. Mr. Glover, a prospective dog handler, addressed the Committee at its October meeting. Proposed rule language is on schedule to be presented at the next Rules Committee meeting.

The Rules Committee also heard a presentation on proposed rules to implement SB 926 by Jeff Horton, Division of Facility Services. Mr. Horton explained the Department is proposing language that will make consistent rule language across the three Divisions effected: Mental Health/Developmental Disabilities/Substance Abuse Services, Social Services and Medical Assistance. The Committee forwarded the proposed rules to the Commission with a favorable report. A full presentation on these rules will follow on today's agenda.

Joe DeLuca from the Rules Review Commission made a presentation at the October Rules Committee meeting on the legislative changes to the rulemaking process. The changes is statute discourage promulgation of temporary rules and makes provisions for expediting the permanent rulemaking process.

Office-Based Opioid Treatment

Johnny Womble with the Regulatory Team of the Division presented on new rules required by the passage of SB 876. There are five rules that require modification to implement the new statute. The staff also made changes to update and clarify the existing rule language. Mr. Womble reviewed the specific line changes.

Mansfield Elmore moved and Mazie Fleetwood seconded the motion to accept the rules changes as presented. The motion passed unanimously.

SB 926 Proposed Rule Language

Stephanie Alexander with the Division Affairs Team of the Division presented in lieu of Jeff Horton who had a family emergency. Stephanie reviewed the new rule language to implement SB 926. The statute allows for a facility license to be denied based on prior history of the applicant and the rules establish permissible criteria.

A motion was made and seconded to approve the rule changes as presented. The motion passed unanimously.

SB 163 Permanent Rule Update

Stephanie Alexander reviewed new rule language as approved by the Department to be filed to replace the temporary rules currently implementing SB 163. These rules govern critical incident reporting, complaint investigation and monitoring of services. These are Secretary rules and do not require approval by the Commission.

General Policy Context and Rules Overview to Prepare for Upcoming Year

Rich Visingardi, Division Director, provided the general policy focus the Division will be pursuing to implement reform and drive rule change proposals over the coming year. He stated that reform focuses on people with disabilities and their families, communities and growing evidence based practices. In response to a question on how reform is being received, Dr. Visingardi stated there is not as much turmoil as in the previous year. Many of the complaints being expressed do not relate to reform but are long standing. The biggest issues related to reform are around divestiture in the public system and the role of the local public system in managing the service system.

With respect to private providers, the biggest issue remaining is the change in the service definitions. We must build the competence of the system to provide the new services. Some providers complain they do not have access to the local network. Overall, Dr. Visingardi reported people with disabilities are realizing the power they have to influence the system. He stated things are moving along as expected for a reform of this magnitude.

Peggy Balak, Division Affairs Team, presented a timeline for rulemaking to meet targeted effective dates to implement rule changes required by the reform. She stated that

in addition to additions, deletions and modifications to existing rule, staff would work to clarify rule language to ensure the rules are more understandable.

Division Update

Don Willis provided an update on Division activities. He noted that Susan Robinson has been appointed as Project Manager for Child MH Plan implementation.

Chris Phillips of the Advocacy and Customer Service Section (DMH) informed the members he is receiving nominations for state Consumer and Family Advisory Committee until the middle of December. Secretary Hooker Odom will make the decision on appointments to the Committee.

Following lunch, Mr. McElroy welcomed Mazie Fleetwood as a new member of the Commission.

There was continuing discussion on the timing of the development of rules for drug detection dogs and their handlers. Mr. Glover spoke briefly asking for ‘fast tracking’ the rule.

Substance Abuse Federation Perspective on Mental Health Reform

At the invitation of the Commission, Anne Doolen and Tony Mulvihill spoke to the Commission.

Anne Doolen of the Triangle Community Health Center spoke representing the NC Substance Abuse Federation subsection of Coalition 2001. She addressed the need for more direct service providers. Ms Doolen stated the state is replacing beds and not increasing the number of beds providing detox services. The system is not developing new services, just switching services.

Tony Mulvihill of the Alcohol/Drug Council of NC reviewed statistics provided by State Auditor’s report concerning the state hospital admissions and discharges of people with addiction disorders. He stated we must get addicts out of hospitals and into effective community programs. He praised Rep. Martha Alexander for the passage of legislation removing the certificate of needs process for detox centers in the last legislative session. No reason to not open more centers. Mr. Mulvihill emphasized there is a great need to have data collected across LME’s and programs.

Mental Health Planning Council Update

Amy Smiley, Division Affairs Team, provided an update on the Mental Health Block Grant Annual Report and the Block Grant Plan for the new federal fiscal year. She informed the Commission about the role of the Mental Health Planning Council in reviewing the block grant. The Block Grant is designed to provide funding for adults with mental illness and children with serious emotional issues. The Planning Council is federally mandated and comprised of consumers, family members and state agency representatives.

Drug Enforcement Presentation

Jerry Ratley, a Special Agent In Charge with the SBI, presented on drug enforcement in the State. He stated the SBI takes a proactive role in drug investigations. There are between 1000 and 1500 drug investigations a year. Drug diversion investigations (of legal prescription drugs) are conducted at a rate of 100 to 125 a year. Methamphetamine, a synthetic form of "speed" is the newest drug problem. In 1999, there were five or six "meth" labs; in 2001, there were 16 labs; and in 2002, there were 98 known labs. This year there will likely be over 200 labs discovered across the State. The rate of successful rehabilitation is less than 5% for this type of addiction. Prevention is key. He also noted abuse of prescription medicine is the growing problem in our State.

New Business

Judy Lewis gave a brief update from the Legislative Committee. She expressed appreciation for Committee members in getting legislators to appear and address Commission meetings. She noted since the General Assembly will not be in session, the focus will be on getting legislators from the triangle area to come to the February meeting. Committee members were especially interested in hearing from Rep. Insko, Chair of the Legislative Oversight Committee. The Committee discussed the need for a brief brochure to the legislature.

Mr. McElroy asked Dr. Sims to speak about his experience in establishing a foundation and plans for becoming service provider. Dr. Sims related the work of a foundation in Catawba County which is assuming the role of a provider of services as a contractor with the LME. The goal is to reach those with the most critical needs knowing this is the most difficult population to serve financially.

Public Comments

Louise Fisher, a volunteer advocate, voiced concerns about the lack of clarity with respect to the definitions of target populations in the reform and availability of services.

Paula Cox, an advocate for her sister, told the members she wants her sister to stay at Murdoch Center where she has resided for 35 years. She worries about providers remaining in business after being investigated by three separate state agencies and opposes forced discharge quotas for state institutions.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 2:55 p.m.